




TO: Mayor and City Council

FROM: Veronica Briseño, Director, Small & Minority Business Resources Department 

DATE: March 17, 2017

SUBJECT: Council Agenda Item 47

On the March 23, 2017 Council Agenda, Item 47 from the Small & Minority Business Resources Department requests City Council's consideration of an extension of the sunset date to the current MBE/WBE Procurement Program Ordinances, Chapter 2-9(A)(B)(C)(D) – Minority-Owned and Women-Owned Business Enterprise Procurement Program, for one year. Staff is requesting this extension to continue its work with the professional services constituents on issues related to the City's Disparity Study. Below is a timeline of recent milestones related to the Disparity Study.

Disparity Study and MBE/WBE Program Ordinance Milestones:

- March 3, 2016 - Council approved Resolution No. 20160303-016 accepting the disparity study
- December 15, 2016 - Council approved Ordinance No. 20161215-054, amending City Code Chapters 2-9A, 2-9B, 2-9C, and 2-9D to extend the sunset date of the Minority-Owned and Women-Owned Business Enterprise Procurement Program from December 31, 2016 to March 31, 2017
- December 2016 – February 2017 - SMBR held meetings with architectural and engineering firms
- March 23, 2017 – Council will consider approving an ordinance amending City Code Chapters 2-9A, 2-9B, 2-9C, and 2-9D to extend the sunset date of the Minority-Owned and Women-Owned Business Enterprise Procurement Program to March 31, 2018

In 2013, City Council authorized staff to execute a contract with NERA to conduct a new disparity study for the City. The last disparity study was completed in 2008. After the adoption of the new disparity study by City Council in 2016, SMBR staff proposed amendments to the MBE/WBE Procurement Ordinances to update the program findings and the MBE/WBE annual participation goals associated with each of the respective ordinances for construction, professional services, commodities, and non-professional services. It was during this period that members of the architectural and engineering industry identified concerns regarding the availability numbers related to professional services. Council extended the sunset date of the existing MBE/WBE Procurement Ordinances from December 31, 2016 to March 31, 2017, and directed staff to work with the impacted firms regarding their concerns. Between December 2016 and February 2017, staff from SMBR and NERA met with various architectural and engineering firms several times and shared information related to the availability and utilization

findings in the study. SMBR staff has shared the stakeholders' concerns about the study with NERA and is working with NERA to address these issues.

Based on these issues, staff is requesting that the following next steps commence in order to allow for the verification of the disparity study:

Next Steps:

1. ***Extend the current ordinances for one year. The current ordinances are scheduled to sunset on March 31, 2017.***

On March 23rd, SMBR will request that Council consider extending the sunset date of the current ordinances to March 31, 2018. The extension of the four MBE/WBE Procurement Program Ordinances through March 2018 will allow the consultant to review and verify the availability and utilization numbers found in the study. The concerns that have been raised regarding the study warrant the sunset date extension to allow sufficient time for verification of the study's findings.

2. ***Work with NERA to verify information contained in the study.***

Staff will work with NERA to verify the study's findings and present detailed information related to questions that have been posed by the community regarding the availability and utilization numbers found in the study. Staff anticipates this process taking at least three months.

3. ***Engage an independent consultant to review the revised disparity information provided by NERA.***

Staff proposes to engage an independent consultant to verify the updated availability and utilization study findings. This "peer review" approach has been recommended by outside legal counsel for the MBE/WBE Procurement Program. Staff anticipates this taking four to six months.

4. ***Present the updated disparity study to the community.***

Once the disparity study verification process has been completed, SMBR staff will present the findings to the stakeholder communities through a series of outreach events.

5. ***Present the updated disparity study and ordinance amendments for Council consideration – February/March 2018.***

Staff will present the updated disparity study to Council for adoption. Staff will also ask Council to consider proposed amendments to the MBE/WBE Procurement Program Ordinances to update the findings and annual goals and to continue the program.

Given the critical nature of this work and the need for accurate disparity information to support our MBE/WBE Procurement Program, the steps highlighted above must be taken to course correct the study. Staff is confident that these actions will alleviate any stakeholder misgivings regarding the study's findings and will strengthen the program. If you have any questions relating to this process, please contact me at 974-7729. Thank you.

CC: Elaine Hart, Interim City Manager
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